## UNITED STATES DISTRICT COURT

## EASTERN DISTRICT OF TEXAS

LARRY ELMORE DRUMMER, JR.,

Petitioner,

Versus

Versus

Respondent.

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CIVIL ACTION NO. 1:17-CV-129

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Respondent.

## MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Petitioner Larry Elmore Drummer, Jr., proceeding *pro se*, filed this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. The court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court.

The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge concerning the petition. The magistrate judge recommends the petition be denied.

The court has received the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings, and all available evidence. Petitioner filed objections to the Report and Recommendation. The court must therefore conduct a *de novo* review of the objections in light of the pleadings and the applicable law.

Petitioner seeks credit towards his federal sentence for a period of time prior to his transfer to state custody following his federal sentencing. The magistrate judge concluded petitioner was not entitled to credit for this time period because this period had been credited towards his state sentence.

In his objections, petitioner asserts his state charges were dismissed on March 20, 2013, and that thereafter his incarceration was solely due to the federal detainer that was lodged against

him. He states this entitles him to receive credit towards his federal sentence for his subsequent

incarceration.

The record reflects that petitioner's state charges were dismissed on March 26, 2013.

However, on February 4, 2013, state officials issued a parole violator warrant for petitioner,

which resulted in his arrest on February 9, 2013. Petitioner's continued incarceration after the

dismissal of his state charges was therefore not solely due to his federal detainer. As he received

credit towards his state sentence for the time he spent incarcerated prior to his transfer to state

custody after his federal sentencing, he may not also receive credit for this period of time towards

his federal sentence. See 18 U.S.C. § 3585.

**ORDER** 

Accordingly, petitioner's objections are **OVERRULED**. The findings of fact and

conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is

**ADOPTED**. A final judgment shall be entered denying the petition.

SIGNED at Beaumont, Texas, this 27th day of February, 2018.

MARCIA A. CRONE

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UNITED STATES DISTRICT JUDGE

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